IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Bail Appl..No. 3821 of 2007()

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CRIME NO.130/06 OF ERNAKULAM CRIME BRANCH

PETITIONER: 2ND ACCUSED:

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C.UNNIKRISHNAN, S/O.KOTHA, AGED 52 YEARS
CHENAPHAYIL, PALLAPPARAMB, PONNANI P.O.

BY ADV. SRI.G.PRIYADARSAN THAMPI

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA, REPRESENTING DEPUTY SUPERINTENDENT OF POLICE, CRIME BRANCH STATION, ERNAKULAM, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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B.A.No. 3821 of 2007

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Dated this the 29th day of June, 2007

**O R D E R**

Application for anticipatory bail. The petitioner, a police constable, is the second accused in a crime registered under Sections 468 and 471 r/w. 34 I.P.C. The crux of the allegation is that bogus passports were obtained fraudulently in the name of persons, who were not really the applicants. The petitioner's role is that he issued verification reports to facilitate issue of such bogus passports. The first accused is alleged to be the principal offender. He has already been enlarged on bail, it is submitted. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He is not in any way knowingly or consciously involved in the alleged attempt to obtain bogus passports. Even assuming the worst, it can only be alleged that the petitioner had performed his official duty negligently. In these circumstances the petitioner may be saved of the undeserved trauma of arrest and incarceration, it is prayed.

3. The learned Prosecutor opposes the application. The learned Prosecutor submits that the indiscretion is gross that it will be puerile to assume that it was only the negligent performance of duty by the petitioner. The learned Prosecutor submits that the investigation suggests and reveals that it is not an isolated incident also. The petitioner's involvement in the present crime and such other crimes deserve closer scrutiny. The contumacious involvement of the petitioner as part of a larger group/ conspiracy has to be checked and ascertained. The petitioner has to be interrogated in custody. Permitting the petitioner to arm himself with an order of anticipatory bail would effectively frustrate the needs and requirements of a proper and efficient investigation, submits the Prosecutor.

4. Having considered all the relevant inputs, I am satisfied that there is merit in the objections by the learned Prosecutor. Even the photograph shown in the passport is not that of the applicant, submits the Prosecutor. That submission weighs with me considerably in coming to the conclusion that this is an eminently fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and co-operate with the investigators before he is granted regular bail.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

**(R. BASANT)**
Judge

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